

NEW SOURCE REVIEW RECONSIDERATION

FACT SHEET

ACTION

- On October 30, 2003, the Environmental Protection Agency (EPA) announced that after reconsidering six specific issues related to the New Source Review (NSR) improvement rule finalized on December 31, 2002, it will not change any of the six issues, but it will clarify two aspects of the final rule.
- In July 2003, EPA responded to petitions from certain environmental groups and state and local governments requesting the Agency to reconsider issues related to the final NSR improvement rule. EPA granted reconsideration and requested comment on six limited issues.
- After careful consideration of the comments received, EPA has concluded that two clarifications to the underlying rule language are warranted. In this notice, EPA:
 1. adds a definition of a “replacement unit”, and
 2. specifies the plantwide applicability limitation (PAL) baseline calculation procedures for newly constructed units do not apply to modified units.Other than these clarifications, EPA did not change either the method of measuring emission increases when existing emission units are replaced or the method for assessing air emissions from process units built after the 24-month baseline period used to establish PAL emission limits.
- After reviewing numerous comments on the report titled: “Supplemental Analysis of the Environmental Impact of the 2002 Final NSR Improvement Rules,” EPA has determined that the report’s conclusion - the NSR improvement rule likely will result in greater environmental benefits than the prior program - is valid.
- After considering comments on the remaining narrow aspects of the final NSR improvement rule, EPA has determined that regulatory changes or clarifications are not needed. These three remaining issues include:
 1. EPA’s inclusion of the “reasonable possibility” standard as it pertains to the need to maintain records and file certain reports when projecting actual emissions following a physical or operational change; and
 2. The decision to allow a PAL to supersede existing emissions limits established for NSR applicability purposes. Compliance with the PAL is then used to determine if NSR requirements apply in the future;

3. The decision to not require evaluation of “Clean Unit” status after an area is redesignated from “attainment” to nonattainment” for one of the six common air pollutants regulated by EPA (ozone, particulate matter, nitrogen dioxide, sulfur dioxide, carbon monoxide and lead).
- One petition for reconsideration was received significantly later than the others. EPA is still evaluating that petition but is denying all other requests for reconsideration of the final NSR improvement rule.

ADDITIONAL INFORMATION

- Interested parties can download information on the NSR Reconsideration from EPA's Web site at: www.epa.gov/nsr. EPA's Office of Air and Radiation's homepage on the Internet contains a wide range of information on air pollution programs and issues. The address is: www.epa.gov/oar/.
- This reconsideration notice and other technical support documents are also available through the EPA's Air and Radiation Docket and Information Center (Docket Number OAR-2001-0004 or legacy number A-90-37) by calling (202) 2566-1742 or fax (202) 566-1741 (a reasonable fee may be charged for copying).

NEW SOURCE REVIEW BACKGROUND

- Congress established the New Source Review program as part of the 1977 Clean Air Act Amendments and slightly modified it in the 1990 Amendments. NSR is a preconstruction permitting program that serves two important purposes.
 - ▶ First, it ensures that air quality is not significantly degraded from the addition of new and modified factories, industrial boilers and power plants. In areas with unhealthy air, NSR assures that new emissions do not slow progress toward cleaner air. In areas with clean air, especially pristine areas like national parks, NSR assures that new emissions do not significantly worsen air quality.
 - ▶ Second, the NSR program assures people that any large new or modified industrial source in their neighborhoods will be as clean as possible, and that advances in pollution control occur concurrently with industrial expansion.
- Over time, the NSR program has become continually more complex and it has not kept pace with industry's needs to make rapid changes in order to stay competitive in the market place. EPA has worked for nearly 10 years to improve the NSR rules to provide flexibility for industry in making changes to their facilities, while ensuring environmental protection.

- EPA revised the NSR program on December 31, 2002. In March 2003, EPA revised the applicable implementation plans concerning certain NSR programs in order to incorporate the December rules into the Federal plan that applies where a state does not have an approved state plan in place. The final and proposed NSR rules and the plan for implementation as well as associated materials are located on EPA's Web site at: www.epa.gov/nsr
- In response to the December and March actions, EPA received petitions requesting the Agency to reconsider numerous issues. On July 30, 2003 (68 FR 44624), EPA granted reconsideration on six issues raised by the petitions and announced it planned to render a final decision on whether to reconsider the remaining petitions within 90 days.
- EPA's improvements to the NSR program are the result of more than a decade of review that has spanned three administrations and has benefitted from the expertise of State and local government officials of both political parties, the environmental community, business leaders, and a host of other stakeholders.